

# EXHIBIT CC

HIGHLY CONFIDENTIAL

Transcript of Erin Herrera  
Conducted on August 4, 2020

1 (1 to 4)

<p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>3 -----X</p> <p>4 CARNEGIE INSTITUTION OF :</p> <p>5 WASHINGTON, M7D CORPORATION :</p> <p>6 Plaintiffs, :</p> <p>7 v. :Civil Action No:</p> <p>8 :1:20-CV-00200JSR</p> <p>9 FENIX DIAMONDS LLC, :</p> <p>10 Defendant. :</p> <p>11 -----X</p> <p>12</p> <p>13 HIGHLY CONFIDENTIAL</p> <p>14 DEPOSITION OF ERIN HERRERA</p> <p>15 APPEARING REMOTELY FROM GLENDORA, CALIFORNIA</p> <p>16 TUESDAY, AUGUST 4, 2020</p> <p>17 12:00 P.M.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Job No.: 312088</p> <p>22 Pages 1 - 163</p> <p>23 Reported by: Adrienne Mignano, RPR</p> <p>24 Appearing remotely from</p> <p>25 Suffolk County, New York</p>	<p>3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFFS:</p> <p>4 MICHELLE UMBERGER, ESQUIRE</p> <p>5 PERKINS COIE LLP</p> <p>6 33 East Main Street</p> <p>7 Suite 201</p> <p>8 Madison, Wisconsin 53703</p> <p>9 (608) 663-7466</p> <p>10</p> <p>11 ON BEHALF OF DEFENDANTS</p> <p>12 NICOLE KOPINSKI, ESQUIRE</p> <p>13 MICHAEL SCHUBERT, ESQUIRE</p> <p>14 LEYDIG, VOIT &amp; MAYER</p> <p>15 Two Prudential Plaza</p> <p>16 180 North Stetson Avenue</p> <p>17 Suite 4900</p> <p>18 Chicago, Illinois 60601</p> <p>19 (312) 616-5600</p> <p>20</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23 GABRIEL BINA, ESQ. - Perkins Coie</p> <p>24 ARMANDO FORTE - Videographer</p> <p>25 RYAN GRZELAK - Remote Tech</p>
<p>2</p> <p>1 Deposition of ERIN HERRERA, held via Zoom</p> <p>2 videoconferencing, Pursuant to Notice, before Adrienne</p> <p>3 M. Mignano, a Registered Professional Reporter and a</p> <p>4 Notary Public in and for the State of New York.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4</p> <p>1 C O N T E N T S</p> <p>2</p> <p>3 EXAMINATION OF ERIN HERRERA PAGE</p> <p>4 BY MS. UMBERGER 6</p> <p>5</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 (Attached to the Transcript)</p> <p>9 HERRERA DEPOSITION EXHIBIT PAGE</p> <p>10 Exhibit 1 Printout from website 50</p> <p>11 Exhibit 2 E-mail string 53</p> <p>12 Exhibit 3 E-mail string 69</p> <p>13 Exhibit 4 E-mail 74</p> <p>14 Exhibit 5 E-mail 79</p> <p>15 Exhibit 6 Attachment to E-mail 82</p> <p>16 Exhibit 7 Three-page e-mail string 94</p> <p>17 Exhibit 8 Attachment to E-mail 95</p> <p>18 Exhibit 9 E-mail 112</p> <p>19 Exhibit 10 E-mail chain 121</p> <p>20 Exhibit 11 Attachment to E-mail 122</p> <p>21 Exhibit 12 E-mail chain 130</p> <p>22 Exhibit 13 E-mail 133</p> <p>23 Exhibit 14 Attachment to E-mail 133</p> <p>24</p> <p>25</p>

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2 (5 to 8)

<p>5</p> <p>1 THE VIDEOGRAPHER: We're now on the 2 record. The following is a videotaped deposition. 3 Here begins Tape Number 1 in the videotaped 4 deposition of Erin Herrera. It's taken in the 5 matter of Carnegie Institution of Washington and 6 M7D Corporation versus Fenix Diamonds LLC. 7 Today's date is August 4, 2020. The 8 time on the video monitor is 12:03 p.m. My name 9 is Armando Forte. I'm the videographer 10 representing Planet Depos. All parties are 11 attending this deposition remotely. Will counsel 12 please identify themselves and who they represent. 13 Ms. Umberger. 14 MS. UMBERGER: This is Michelle 15 Umberger, and I represent the Carnegie Institute 16 of Washington and M7D Corporation. 17 THE VIDEOGRAPHER: Ms. Kopinski. 18 MS. KOPINSKI: Nicole Kopinski, and I 19 represent Ms. Erin Herrera subject to her 20 subpoena, and with me is Mike Schubert, from 21 Leydig, Voit &amp; Mayer, Limited. 22 THE VIDEOGRAPHER: Our court reporter 23 for today is Adrienne Mignano, representing Planet 24 Depos, she will now swear in the witness, or 25 affirm, and we will proceed.</p>	<p>7</p> <p>1 today. And your counsel may have gone over this, 2 but let's first try not to talk over each other. 3 So I will try to make it clear when I finish my 4 question and give you the opportunity to fully 5 answer before I ask another question. 6 If you don't understand a question that 7 I ask, please ask me to restate it or let me know. 8 If you respond to a question that I ask, I will 9 assume you understood the question as it was 10 asked. But sometimes I really mess up and it's a 11 very confusing question, and I'm happy to restate 12 if you don't understand the question. 13 Also, you know that you're under oath 14 today; is that correct? 15 <b>A Yes.</b> 16 Q And you are here to tell the truth, 17 just as if you were in a court of law? 18 <b>A Yes.</b> 19 Q And is there any reason you cannot 20 testify truthfully and accurately today, such as 21 are you on any medication or have any illnesses 22 that might prevent you from testifying truthfully 23 and accurately today? 24 <b>A No.</b> 25 Q All right. Finally, if you need any</p>
<p>6</p> <p>1 Whereupon, 2 ERIN HERRERA, 3 being first duly sworn or affirmed to testify to 4 the truth, the whole truth, and nothing but the 5 truth, was examined and testified as follows: 6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF 7 EXAMINATION BY 8 MS. UMBERGER: 9 Q Good morning, Ms. Herrera. My name is 10 Michelle Umberger and, as I said, I represent M7D 11 and the Carnegie Institute of Washington in this 12 matter. 13 Have you ever had your deposition taken 14 before? 15 <b>A I have not. And good morning.</b> 16 Q Good morning. Were you -- are you 17 being represented by counsel today? 18 <b>A Yes, I am.</b> 19 Q And that is Ms. Kopinski; is that 20 correct? 21 <b>A Yes.</b> 22 Q I'm going to go over a couple of ground 23 rules for the deposition that will just hopefully 24 make it easier on everyone, including the court 25 reporter, and everyone else we have on the line</p>	<p>8</p> <p>1 breaks, just please just let me know. I will try 2 to stop probably every hour and 15 minutes or so 3 because that seems to be a good time. Everyone 4 gets a little tired at that point, so I'll try to 5 do that, but if there is a point in which you need 6 to take a break other than when a question is 7 pending, just let me know, and we'll take a break. 8 <b>A Okay.</b> 9 Q Oh, finally, technical issues. Now, 10 Ryan is very optimistic everything will go 11 smoothly, and I am every time a deposition starts 12 out. But there may be times when my voice cuts 13 out for some reason, the microphone or we have 14 some other technical issue, but I appreciate your 15 patience with those. And if my voice does cut 16 out, again, just ask me to restate the question. 17 <b>A I will.</b> 18 Q The court reporter usually does a good 19 job of that too. 20 All right. So can you describe for me 21 your education beyond high school? 22 <b>A Can you be more specific?</b> 23 Q Yes. Do you have any post high school 24 education? Did you go to college? 25 <b>A No.</b></p>

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3 (9 to 12)

<p>9</p> <p>1 Q Did you have any other post high school</p> <p>2 education, associate school, technical school,</p> <p>3 anything like that?</p> <p>4 <b>A On-the-job training, industry-specific</b></p> <p>5 <b>types of trainings, company trainings, but nothing</b></p> <p>6 <b>in a formalized institution.</b></p> <p>7 Q So when you first started, you consider</p> <p>8 yourself an experienced sales executive at this</p> <p>9 point?</p> <p>10 <b>A Yes.</b></p> <p>11 Q How did you start out in sales?</p> <p>12 <b>A In high school. I worked in the mall.</b></p> <p>13 Q Nice. After high school, can you</p> <p>14 describe for me your first, kind of, few positions</p> <p>15 in sales after that?</p> <p>16 <b>A I worked retail for a long time and</b></p> <p>17 <b>then I entered into the world of wholesale in</b></p> <p>18 <b>apparel, transitioned into a short stint in</b></p> <p>19 <b>marketing and ad sales, and then into the jewelry</b></p> <p>20 <b>industry.</b></p> <p>21 Q When did you start getting into the</p> <p>22 jewelry industry?</p> <p>23 <b>A 2013 -- I'd have to double-check to be</b></p> <p>24 <b>100 percent accurate, but yeah, 2013.</b></p> <p>25 Q And was that with a particular company?</p>	<p>11</p> <p>1 Q Now, where were you employed after</p> <p>2 that?</p> <p>3 <b>A Diamond Foundry.</b></p> <p>4 Q And what is the business of Diamond</p> <p>5 Foundry?</p> <p>6 <b>A Diamond Foundry is a lab-grown diamond</b></p> <p>7 <b>grower, and they also sell their own diamonds.</b></p> <p>8 Q When you say they are their own grower,</p> <p>9 what do you mean by that?</p> <p>10 <b>A They grow diamonds.</b></p> <p>11 Q And do you know the process by which --</p> <p>12 do you know the process by which Diamond Foundry</p> <p>13 grows diamonds?</p> <p>14 MS. KOPINSKI: Objection to form.</p> <p>15 <b>A Can you be more specific?</b></p> <p>16 Q Were these diamonds that were produced</p> <p>17 by CVD or chemical vapor deposition?</p> <p>18 MS. KOPINSKI: Objection to form. And</p> <p>19 I'll caution the witness not to answer to the</p> <p>20 extent that your answer would violate any</p> <p>21 non-disclosure agreement.</p> <p>22 Q You can answer unless there is an issue</p> <p>23 that was identified by your counsel.</p> <p>24 <b>A I am not technical. I'm on the sales</b></p> <p>25 <b>side. So the specifics are not really something I</b></p>
<p>10</p> <p>1 <b>A Yes, it was.</b></p> <p>2 Q What company was that?</p> <p>3 <b>A Pandora Jewelry.</b></p> <p>4 Q How long did you work at Pandora?</p> <p>5 <b>A Four or five years.</b></p> <p>6 Q What was your title there?</p> <p>7 <b>A I had various titles in that company.</b></p> <p>8 Q Let's talk about the title you had at</p> <p>9 the time you left Pandora. What was your title at</p> <p>10 that point?</p> <p>11 <b>A Senior key account manager.</b></p> <p>12 Q And what were your responsibilities as</p> <p>13 senior key account manager?</p> <p>14 <b>A I managed everything for a variety of</b></p> <p>15 <b>key accounts identified by Pandora. Sales,</b></p> <p>16 <b>marketing, et cetera.</b></p> <p>17 Q How long did you work at Pandora?</p> <p>18 <b>A About four to five years. Again, dates</b></p> <p>19 <b>elude me. I'd have to reference something to be</b></p> <p>20 <b>sure.</b></p> <p>21 Q Would you have left Pandora then about</p> <p>22 2017, 2018?</p> <p>23 <b>A Yes.</b></p> <p>24 Q And did you become employed after that?</p> <p>25 <b>A Yes, I did.</b></p>	<p>12</p> <p>1 <b>can speak to.</b></p> <p>2 Q Do you know what a CVD-grown diamond</p> <p>3 is?</p> <p>4 MS. KOPINSKI: Objection. Form.</p> <p>5 Foundation.</p> <p>6 <b>A I know that a CVD diamond is a type of</b></p> <p>7 <b>lab-grown diamond.</b></p> <p>8 Q Now, Ms. Herrera, I've reviewed a</p> <p>9 number of your documents, and you said you</p> <p>10 consider yourself an experienced sales</p> <p>11 representative; is that correct?</p> <p>12 MS. KOPINSKI: Objection. Form.</p> <p>13 Q You can answer.</p> <p>14 <b>A Yes.</b></p> <p>15 Q Okay. And, now, as I review your</p> <p>16 documents, it seems like you are someone who takes</p> <p>17 your career seriously?</p> <p>18 MS. KOPINSKI: Objection. Form.</p> <p>19 Q Is that right?</p> <p>20 <b>A Yes.</b></p> <p>21 Q And you care about your professional</p> <p>22 reputation?</p> <p>23 <b>A Yes.</b></p> <p>24 MS. KOPINSKI: Objection. Form.</p> <p>25 Q And so when you are at a company such</p>

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